

REMARKS/ARGUMENTS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-47 were pending prior to the Office Action. In this Reply, claims 48-57 are added. Therefore, claims 1-57 are pending. Claims 1, 26 and 54 are independent.

A. DRAWING CHANGES

Along with this Reply, drawing changes are separately submitted to amend Figures 1, 9, 11, 13, 15 and 17. The amendments merely enhance consistency with the specification as originally submitted. No new matter is presented. Applicants respectfully request that the changes to the drawings be accepted.

B. CLAIM OBJECTIONS

Claims 1, 8, 13, 20 and 29 stand objected to under 37 C.F.R. § 1.75 due to informalities. These claims are amended to address the issues raised. Applicants respectfully request that the objection to the claims be withdrawn.

C. § 103 REJECTION – LAKKAKORPI, WU

Claims 1-47 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lakkakorpi (WO 03/096733) in view of Wu (U.S. Publication 2002/0082015). *See Office Action, item 3 on pages 3-16.* Applicants respectfully traverse.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie case* of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, the combination of Lakkakorpi and Wu does not disclose all claimed features. For example, independent claim 1 recites, in part "checking that a maximum allowed delay is not exceeded for a data path for each of the selected one or more DHO node(s) by using a delay metric from the topology information, and when the maximum allowed delay is exceeded, performing a delay reduction procedure until the maximum allowed delay is not exceeded, wherein the delay reduction procedure comprises removing one or more already selected DHO nodes from the path." The Office Action alleges that Lakkakorpi discloses this feature and relies upon page 11, lines 1-14.

Lakkakorpi is directed toward a method and network device for selecting a combining point at which at least two redundant transmission paths are combined to form a single transmission path in a transmission network. *See page 1, lines 3-8.* Figure 2 of Lakkakorpi illustrates an implementation of a combining point selection process. When a request for a new call or some other trigger arise at a serving base station (IP BTS), the first selection criteria is applied in step 1. In step 1, a general initial constraints are checked against each potential MDC (macro diversity combining) points, which are nodes in a

network as illustrated in Figure 1 of Lakkakorpi. The general constraints include real time threshold, class X threshold and MDC threshold. *See Lakkakorpi, page 10, lines 16-20.* These generalized constraints are merely limits on traffic loads on the nodes of the network. Starting in line 25 of page 9, Lakkakorpi describes these generalized constraints.

Thus contrary to the Office Action's allegation, the real time threshold constraints stated in page 11, lines 1-14 have nothing to do with determining whether maximum amount of delay is exceeded or not. Lakkakorpi demonstrates that the real time constraints are merely limits on the processing load of each node in the network. This is further evident in Figure 7 of Lakkakorpi which illustrates a table of maximum loads tolerated for each node in the network. Thus, contrary to the allegation in the Office Action, Lakkakorpi does not teach or suggest the above recited feature.

At best, Lakkakorpi attempts to minimize the number of hops between the serving gateway station and the node Bs. First, hops are not necessarily equivalent to the delays. As clearly demonstrated, each hop may be associated with different delays. Thus, minimizing hops does not necessarily indicate minimizing delays.

Second, even if it is assumed that hops correlate perfectly with delays, Lakkakorpi still does not disclose the above recited feature. In Lakkakorpi, a MDC point is chosen such that the number of hops is minimized in the network. There is no threshold set for number of hops that is enforced.

It is clear that Lakkakorpi does not teach or suggest the feature of checking that a maximum allowed delay is not exceeded and performing a delay reduction procedure until the maximum allowed delay is not exceeded as recited. Wu does not correct this deficiency of Lakkakorpi. Accordingly, independent claim 1 is distinguishable over the combination of Lakkakorpi and Wu.

The following is also noted. The Office Action states that Wu discloses performing a delay metric and relies upon paragraph 77 which states "the most critical performance metric in a mobile environment is the delay due to handover." Even if the allegation is taken at its face value, this would merely suggest to Lakkakorpi that instead of minimizing hops, minimizing the delay would be appropriate. But again, minimizing the delay does not equate with setting a threshold for delay since threshold indicates a cutoff while minimizing does not. In other words, even if Lakkakorpi is modified with the teachings of Wu as suggested in the Office Action, the feature as recited would not occur.

Independent claim 26 recites, in part "means for checking that a maximum allowed delay is not exceeded for a data path" and "means for performing, when the maximum allowed delay is exceeded, a delay reduction procedure until the maximum allowed delay is not exceeded." It is clear that the combination of Lakkakorpi and Wu does not teach or suggest these features. Accordingly, independent claim 26 is distinguishable over a combination of Lakkakorpi and Wu. Claims 2-25 and 27-47 depend from independent claims 1 and 26, and recite further distinguishing features.

Therefore, these dependent claims are distinguishable over the combination of Lakkakorpi and Wu.

Applicants respectfully request that the rejection of claims 1-47 based on Lakkakorpi and Wu be withdrawn.

D. NEW CLAIMS

Claims 48-57 are added in this Reply. All new claims are believed to be distinguishable over the cited references, individually or in any combination.

Claims 48-53 depend from independent claims 1 and 26, and recite further distinguishing features. For example, claim 49 recites that the macro diversity functionality remains after completing the delay reduction procedure. In contrast, Lakkakorpi does not ensure that macro diversity remains. As illustrated in Figure 2, if the constraints are not met in step 1, the base stations can be dropped to an extent such that the call is rejected or one BTS remains to serve the mobile terminal. In both situations, macro diversity is not maintained. This demonstrates also that the cited references do not disclose the feature of plural DHO nodes remaining after completing their delay reduction procedure as recited in claim 48.

Independent claim 54 recites, in part “selecting among the candidate DHO nodes that ensure that an accumulated delay of the data path does not exceed a predetermined maximum allowed delay.” As noted above, the cited references do not teach or suggest this feature.

Applicants request that the new claims be allowed.

E. CONCLUSION

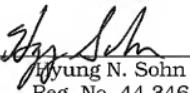
All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Respectfully submitted,

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